



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

Northern Virginia Regional Office
13901 Crown Court
Woodbridge, VA 22193-1453
(703) 583-3800 fax (703) 583-3801
www.deq.state.va.us

Robert G. Burnley
Director

Jeffery A. Steers
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT ISSUED TO

**APAC-Atlantic, Inc. – Virginia Division
DEQ Registration No. 70014**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1316.C, 10.1-1307.D and 10.1-1309, between the State Air Pollution Control Board (SAPCB) and APAC-Atlantic, Inc., for the purpose of resolving certain alleged violations of the air permit and regulations as specified in SECTION C of this Order.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.

5. "Order" means this document, also known as a Consent Order.
6. "APAC-Atlantic" means APAC-Atlantic, Inc. – Virginia Division located at 9599 Hawkins Drive, Manassas, Virginia 20108.
7. "NVRO" means the Northern Virginia Regional Office of DEQ, located in Woodbridge, Virginia.
8. "Regulations" refers to the Regulations for the Control and Abatement of Air Pollution for the Commonwealth of Virginia.
9. "VAC" means Virginia Administrative Code.

SECTION C: Findings of Fact

1. The DEQ stationary source permit to construct and operate the asphalt concrete manufacturing facility was issued on October 31, 2003. Permit Condition No. 16 limits the particulate matter emissions at 0.04 grains/dry standard cubic foot (gr/dscf).
2. Permit Condition No. 25 states that an initial compliance determination stack test shall be conducted for particulate matter from the drum-dryer mixer's exhaust (bag house) and shall be performed by July 31, 2004.
3. NVRO received a letter on July 28, 2004, from APAC requesting an extension to the original July 31, 2004, stack test deadline. NVRO granted the request, in a letter dated August 12, 2004, stipulating a September 3, 2004, deadline for initial compliance stack testing.
4. The initial compliance determination stack test was conducted on August 31, 2004, and the stack test final report was received by the DEQ NVRO on October 1, 2004. The results of the stack test indicate that the particulate matter emissions averaged 0.05 gr/dscf (0.047 gr/dscf was the reported value) over the three tests conducted. DEQ submitted a stack test review inspection report to the facility on November 3, 2004.
5. DEQ issued a Warning Letter to APAC-Atlantic, dated November 1, 2004, stating that the facility must take the necessary steps to demonstrate compliance with the operating permit within 30 days (December 1, 2004).

6. The facility has indicated that they replaced all filter bags in the bag house and had rescheduled stack testing on several occasions in November and December 2004. The last scheduled date for stack testing was December 10, 2004, and this testing was not conducted.
7. DEQ issued a Notice of Violation to APAC-Atlantic on January 7, 2005, for failing to demonstrate compliance by December 1, 2004.
8. After the installation of the new filter bags, APAC-Atlantic conducted bag house stack testing on February 8, 2005. The average PM emissions for the three test runs was 0.016 gr/dscf which is significantly less than the permit limit. Based on these results, it is DEQ's contention that APAC-Atlantic violated 9 VAC 5-40-20E that requires the facility to operate and maintain their air pollution control equipment in a manner consistent with air pollution control practices for minimizing emissions.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §10.1-1316(C), the Board orders APAC-Atlantic, and APAC-Atlantic agrees, to pay a civil charge in the amount of Ten Thousand Nine Hundred and Thirty Two dollars (\$10,932.00). The civil charge is due within 30 days of the effective date of the Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
P.O. Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of APAC-Atlantic, for good cause shown by APAC-Atlantic, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to APAC-Atlantic by DEQ on January 7, 2005. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent

action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.


3. For purposes of this Order and subsequent actions with respect to this Order, APAC-Atlantic admits the jurisdictional allegations, factual findings, and conclusions contained herein.
4. APAC-Atlantic consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. APAC-Atlantic declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by APAC-Atlantic to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. APAC-Atlantic shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. APAC-Atlantic shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. APAC-Atlantic shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result or has resulted in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and APAC-Atlantic. Notwithstanding the foregoing, APAC-Atlantic agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to APAC-Atlantic. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve APAC-Atlantic from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, APAC-Atlantic voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of April 11, 2005.



Robert G. Burnley, Director
Department of Environmental Quality

APAC-Atlantic voluntarily agrees to the issuance of this Order.

By: Wade C. House
Date: 4/8/05

Commonwealth of Virginia

City/County of Prince William

The foregoing document was signed and acknowledged before me this 8th day of
April, 2005, by Wade C. Nouse, who is
(Month) (Name)

VP/Area Manager of APAC-Atlantic, on behalf of the Corporation.
(Title)

Denise L. Nause
Notary Public

My commission expires: 6/30/06